

## REMARKS

This is a full and timely response to the Final Office Action mailed March 28, 2008. Claims 1, 3 – 16, 21 and 22 are pending. The Applicants have amended claims 1, 3, 4 and 21 as indicated above, and canceled claims 2 and 17 – 20 without prejudice, waiver, or disclaimer. The Applicants respectfully request that the application and all pending claims be reconsidered and allowed.

### I. Summary of Office Action

As an initial matter, the Applicants wish to address an improper (and perhaps inadvertent) statement in the Summary of the Office Action suggesting that the Applicants' prior remarks submitted January 18, 2008 were non-responsive. The Office Action states that "[t]he amendments required a new search and therefore Applicant's arguments are considered moot and **non-responsive**." The Office Action appears to suggest that the Applicants' arguments presented in the Amendment & Response submitted January 18, 2008 are "non-responsive" merely because a new search was required. This is clearly not the case. The Applicants submit that these arguments were indeed fully responsive to the Office Action dated October 18, 2007. The Applicants note that the Office Action should have indicated that the remarks, while fully responsive to the prior grounds of rejection, are deemed to be moot in view of the new grounds of rejection.

## II. Rejection Under 35 U.S.C. 103

The Office Action rejects claims 1 – 22 under 35 U.S.C. 103 as allegedly being unpatentable over U.S. Patent No. 6,473,500 to Risafi *et al.* (“Risafi”) in view of one or more additional references. Claims 2 and 17 – 20 have been canceled without waiver, prejudice or disclaimer and, therefore, the rejection of these claims is rendered moot. Of the remaining pending claims, claims 1 and 21 are independent claims. Independent claim 1 stands rejected as allegedly being unpatentable over Risafi in view of U.S. Patent Application Publication No. 2004/0078340 to Evans (“Evans”). All claims depending from claim 1 stand rejected over the combination of Risafi and Evans or one more or more additional references. Independent claim 21 and dependent claim 22 stand rejected as allegedly being unpatentable over Risafi in view of U.S. Patent Application Publication No. 2003/0036998 to Allitson (“Allitson”) and further in view of U.S. Patent Application Publication No. 2003/0055783 to Cataline (“Cataline”).

The Applicants respectfully submit that, as an initial procedural matter, the rejection of independent claims 1 and 21 is improper for at least the reason that the Office Action fails to establish a *prima facie* case for combining the references in such a manner to render the claims obvious. It is fundamental law that to establish a legally-sufficient case of obviousness the rejection cannot be mere conclusory statements and must be based on some articulated reasoning with some rational underpinning. See *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). The Office Action offers nothing more than the mere conclusory statement that it would have been obvious to one of ordinary skill in the art to combine the references because the combination would be beneficial. Merely stating that a particular combination would be beneficial *without more* is, on its face, legally insufficient to

establish obviousness. For at least this reason, the rejection is improper.

Even assuming for the sake of argument that the Office Action establishes a prima facie case of obviousness (which the Applicants do NOT concede), the Applicants respectfully assert that the rejection of independent claims 1 and 21 is improper for at least the additional reason that the claims recite features or elements not disclosed, taught, or suggested by the cited references, as described below in detail.

Independent claim 1 is directed to a terminal that can be operated by a merchant to provide a plurality of financial services to a customer, and independent claim 21 is directed to a system for providing financial services that comprises a terminal and a server coupled to the terminal. Both independent claims 1 and 21 recite the element or feature of the merchant terminal being operable to: (1) extract session data from a data source associated with a customer via a data input interface; and (2) authorize the creation of a financial account and the provision of the associated financial service based on the extracted session data. The merchant terminal enables the customer to select and establish the financial account and receive the associated financial service via the merchant terminal. And, significantly, the merchant terminal also provides the feature of authorizing the creation of the financial account by sending the session data to a server and receiving an authorization from the server. The authorization process involves validating the extracted session data against at least one requirement for providing the selected financial service.

Risafi does not disclose, teach, or suggest this feature. The terminal disclosed in Risafi is merely operable to activate preexisting prepaid card accounts. There is not an authorization process because the accounts already exist and all cards are activated. As such, there is NOT a process for determining whether to create the financial account. Furthermore, there is no need to

determine whether to create the account and, therefore, neither the terminal nor the server are operable to validate session data against a requirement for providing the selected financial service for the purpose of determining whether to create the financial account and provide the selected financial service.

None of the cited references correct this deficiency. In fact, the Applicants respectfully submit that Risafi specifically teaches away from any such authorization process because the accounts are preexisting and all cards are activated. Again, there is no need to determine whether to create the account based on session data if all prepaid cards are automatically activated via the activation process. Nonetheless, the Applicants submit that the secondary references cited in support of the rejection of independent claims 1 and 21 do not correct the deficiency. None of the references disclose, teach, or suggest a merchant terminal that is operable to authorize the creation of the financial account and the provision of the selected financial service based on the session data extracted from the data source. Regarding the rejection of independent claim 1, the Office Action suggests that Evans teaches authorizing the creation of the financial account via the merchant terminal. The Applicants disagree. Evans merely discloses the process of authorizing an electronic payment transaction being made at a terminal – not authorizing the creation of the financial account or the provision of the selected financial service at the terminal. The Applicants acknowledge that the process of authorizing electronic payment transactions is not new, as most, if not all, terminals that enable electronic payments will authorize the payment in some manner. There is a substantial and meaningful difference, however, between authorizing payment at a terminal as taught by Evans and authorizing the creation of the financial account and the provision of the financial service at the terminal, as recited in independent claims 1 and 21. Regarding the rejection of independent

claim 21, neither Allitson nor Cataline disclose, teach, or suggest such an authorization process at a merchant terminal.

For at least this reason, the rejection of independent claims 1 and 21 should be withdrawn and the claims allowed. The rejection of dependent claims 3 – 16 (which depend from independent claim 1) and dependent claim 22 (which depends from independent claim 21) should also be withdrawn and the claims allowed for at least the reason that these claims include all of the elements of the corresponding base claim. Accordingly, the Applicants respectfully request that the rejection of claims 1, 3 – 16, 21 and 22 be withdrawn and the claims allowed.

### **CONCLUSION**

For at least the reasons set forth above, the Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims 1, 3 – 16, 21 and 22 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are requested. If in the opinion of the Examiner a telephonic conference would expedite examination of this application, the Examiner is invited to call the undersigned attorney at 813-382-9345.

Respectfully submitted,

/Adam E. Crall/

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### **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence, including any items indicated as attached or included, is being electronically submitted to the United States Patent & Trademark Office via the Electronic Filing System on the date indicated below.

Date: June 26, 2008

/Adam E. Crall/

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Signature